

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

BRUCE E. FOSTER,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 1:21-cv-02158-JPH-MKK
	)	
DENNIS REAGLE,	)	
	)	
Respondent.	)	

**ORDER DENYING MOTION TO PROCEED ON APPEAL *IN FORMA PAUPERIS***

The petitioner seeks leave to proceed on appeal without prepayment of the appellate fees of \$505.00. An appeal may not be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915; *see Coppedge v. United States*, 369 U.S. 438 (1962). "Good faith" within the meaning of § 1915 must be judged by an objective, not a subjective, standard. *See id.*

The petitioner's habeas petition was denied because his claims were either (1) procedurally defaulted because he did not raise them in before either the Indiana Court of Appeals or the Indiana Supreme Court, (2) noncognizable state-law decisions, or (3) meritless because the Indiana Court of Appeals reasonably applied federal law. The Indiana Court of Appeals reasonably determined that the petitioner's conviction rested on sufficient evidence based on the testimony of a witness who saw him attempting to break into the victim's apartment with a knife and then arguing with the victim as the two entered her apartment on the morning she was stabbed to death.

There is no objectively reasonable argument the petitioner could present to argue that the disposition of this action was erroneous. In pursuing an appeal, therefore, the petitioner "is acting in bad faith . . . [because] to sue in bad faith means merely to sue on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose to have any merit." *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). Accordingly, his appeal is not taken in good faith, and for this reason his request for leave to proceed on appeal *in forma pauperis*, dkt. [22], is **denied**.

**SO ORDERED.**

Date: 6/20/2023



James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

Distribution:

BRUCE E. FOSTER  
882248  
PENDLETON - CF  
PENDLETON CORRECTIONAL FACILITY  
Electronic Service Participant – Court Only

Sierra A. Murray  
INDIANA ATTORNEY GENERAL  
sierra.murray@atg.in.gov